**D.B. CIVIL SPECIAL APPEAL (W) No.1137/2006**

The Deputy General Manager & Authorised Disciplinary Authority, Rajasthan State Road Transport Corporation.
Vs.
Shri Bajrang Lal & Anr.

Date of Order :: 02-05-2007

**HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA**
**HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ**

Shri Jagmohan Saxena for the appellant.

****

This appeal has come up for hearing on the point of condonation of delay. We however looked into merit of the case so that condonation may not be a futile exercise, and accordingly heard counsel for the appellant.

By the order impugned the learned Single Judge declined to interfere with the order of the Industrial Tribunal, Jaipur dated 24.10.2000 rejecting the appellant's application under Section 33(2)(b) of the Industrial Disputes Act seeking approval of dismissal of respondent no.1, Bajrang Lal, from service.

The respondent was a driver in the Rajasthan State Road Transport Corporation. The vehicle which he was driving was checked and twenty passengers were found to be travelling without tickets. It appears that there is a circular of the Corporation in terms of which in case of ticketless travel, the driver is also liable along with the conductor of the vehicle. When we expressed our observation on the point, it was submitted that in cases of ticketless travelling, there is always collusion between the driver and the conductor. We are of the view that the existence of collusion between the driver and conductor has to be

proved by evidence and without such evidence, there cannot be any presumption of collusion with the conductor. Issuance of ticket was not part of the duty of the respondent, and therefore if passengers were found to be travelling without tickets, he cannot be held responsible for the same. Taking such view, the Tribunal rejected the application under Section 33(2)(b) of the ID Act and we find no error in the same. We are thus of the view that no useful purpose would be served condoning the delay.

The appeal is dismissed.

**[MOHAMMAD RAFIQ],J.** **[S.N.JHA],CJ.**

Skant/-